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Attorneys for Plaintiffs,
CAPITOL RECORDS, INC.; UMG
RECORDINGS, INC.; VIRGIN RECORDS
AMERICA, INC.; LAFACE RECORDS
LLC; LAVA RECORDS LLC; SONY BMG
MUSIC ENTERTAINMENT; BMG
MUSIC; and ATLANTIC RECORDING
CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
DIVISION

CAPITOL RECORDS, INC., a Delaware
corporation; UMG RECORDINGS, INC., a
Delaware corporation; VIRGIN RECORDS
AMERICA, INC., a California corporation;
LAFACE RECORDS LLC, a Delaware limited
liability company; LAVA RECORDS LLC, a
Delaware limited liability company; SONY
BMG MUSIC ENTERTAINMENT, a Delaware
general partnership; BMG MUSIC, a New York
general partnership; and ATLANTIC
RECORDING CORPORATION, a Delaware
corporation,

Plaintiffs,

v.

JOHN DOE,

Defendant.

CASE NO. _____

**EX PARTE APPLICATION FOR LEAVE
TO TAKE IMMEDIATE DISCOVERY**

EX PARTE APPLICATION FOR LEAVE TO TAKE IMMEDIATE DISCOVERY

Case No. _____
#36409 v1

1 Plaintiffs, through their undersigned counsel, pursuant to Federal Rules of Civil Procedure 26
 2 and 45, the Declaration of Carlos Linares, and the authorities cited in the supporting Memorandum
 3 of Law, hereby apply *ex parte* for an Order permitting Plaintiffs to take immediate discovery.

4 In support thereof, Plaintiffs represent as follows:

5 1. Plaintiffs, record companies who own the copyrights in the most popular sound
 6 recordings in the United States, seek leave of the Court to serve limited, immediate discovery on a
 7 third party Internet Service Provider ("ISP") to determine the true identity of Defendant, who is
 8 being sued for direct copyright infringement.¹

9 2. As alleged in the complaint, Defendant, without authorization, used an online media
 10 distribution system to download Plaintiffs' copyrighted works and/or distribute copyrighted works to
 11 the public. Although Plaintiffs do not know the true name of Defendant, Plaintiffs have identified
 12 Defendant by a unique Internet Protocol ("IP") address assigned to Defendant on the date and time
 13 of Defendant's infringing activity.

14 3. Plaintiffs intend to serve a Rule 45 subpoena on the ISP seeking documents that
 15 identify Defendant's true name, current (and permanent) address and telephone number, e-mail
 16 address, and Media Access Control ("MAC") address. Without this information, Plaintiffs cannot
 17 identify Defendant or pursue their lawsuit to protect their copyrighted works from repeated
 18 infringement.

19 4. Good cause exists to allow Plaintiffs to conduct this limited discovery in advance of a
 20 Rule 26(f) conference where there are no known defendants with whom to confer.

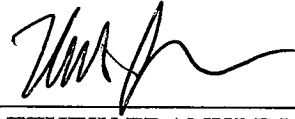
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 26 ¹ Because Plaintiffs do not yet know Defendant's true identity, Plaintiffs are unable to
 27 personally serve Defendant with a copy of this motion. Instead, Plaintiffs will serve the Clerk of
 28 Court pursuant to Fed. R. Civ. P. 5(b)(2)(D) ("A paper is served under this rule by . . . leaving it with
 the court clerk if the person has no known address.") and will serve Defendant's ISP with a copy of
 this motion. Additionally, if the Court grants this motion, Plaintiffs will ask the ISP to notify the
 Defendants of the subpoena and provide Defendant with an opportunity to object.

1 WHEREFORE, Plaintiffs apply *ex parte* for an Order permitting Plaintiffs to conduct the
2 foregoing requested discovery immediately.

3
4 Dated: March 27, 2008

HOLME ROBERTS & OWEN LLP

5
6 By



MATTHEW FRANKLIN JAKSA

Attorney for Plaintiffs

7 CAPITOL RECORDS, INC.; UMG
8 RECORDINGS, INC.; VIRGIN RECORDS
9 AMERICA, INC.; LAFACE RECORDS LLC;
10 LAVA RECORDS LLC; SONY BMG MUSIC
11 ENTERTAINMENT; BMG MUSIC; and
12 ATLANTIC RECORDING CORPORATION
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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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WDB

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Plaintiffs,

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JOHN DOE,

Defendant.

CASE NO. _____

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' EX PARTE APPLICATION
FOR LEAVE TO TAKE IMMEDIATE
DISCOVERY**

**[PROPOSED] ORDER GRANTING PLAINTIFFS' EX PARTE APPLICATION FOR LEAVE TO TAKE
IMMEDIATE DISCOVERY**

Case No. _____
#36412 v1

1 Upon the Plaintiffs' *Ex Parte* Application for Leave to Take Immediate Discovery, the
2 Declaration of Carlos Linares, and the accompanying Memorandum of Law, it is hereby:

3 ORDERED that Plaintiffs may serve immediate discovery on California State University,
4 Monterey Bay to obtain the identity of Defendant by serving a Rule 45 subpoena that seeks
5 documents that identify Defendant, including the name, current (and permanent) address and
6 telephone number, e-mail address, and Media Access Control addresses for Defendant. The
7 disclosure of this information is ordered pursuant to 20 U.S.C. § 1232g(b)(2)(B).

8 IT IS FURTHER ORDERED THAT any information disclosed to Plaintiffs in response to
9 the Rule 45 subpoena may be used by Plaintiffs solely for the purpose of protecting Plaintiffs' rights
10 under the Copyright Act.

11
12
13 DATED: _____

By: _____
United States District Judge